

**LAKE COUNTY PLANNING BOARD**  
**January 8, 2020**  
**Lake County Courthouse, Large Conference Room (Rm 316)**  
**Meeting Minutes**

**MEMBERS PRESENT:** Steve Rosso, John Fleming, Lee Perrin, Janet Camel, Abigail Feiler, Sigurd Jensen (6:48 pm)

**STAFF PRESENT:** Jacob Feistner, Lita Fonda; Wally Congdon (to 8 pm-ish)

Steve Rosso called the meeting to order at 6:40 pm.

**SELECTION OF 2020 CHAIR & VICE-CHAIR (6:40 pm)**

**Motion by Lee Perrin, and seconded by John Fleming, nominating Steve Rosso as Chair. Motion by Steve Rosso, and seconded by John Fleming, nominating Abigail Feiler as Vice-Chair.** No other nominations were offered. The Board voted on the proposed slate of officers.  
**Motion carried, all in favor.**

**FLOODPLAIN MANAGEMENT REGULATIONS UPDATE (6:41 pm)**

Jacob Feistner described why the update was being done. DNRC (MT Department of Natural Resources & Conservation) wanted updates, given more recent model regulations. The current regulations were completed in 2013, which was the year before the model regulations changed. He outlined some of the changes that were desired. (See attachments to minutes in the January 2020 meeting file for staff memo and draft regulations.) He mentioned terminology changes, highlighting the replacement of '100-year floodplain' with the terms used by DNRC of the 1% or the 'regulated flood hazard area', which was a broader term. This would bring the terminology in line with what DNRC and FEMA (Federal Emergency Management Agency) were using. Changes brought things more in line with the model regulations.

The Board opted for Jacob to give some background on floodplain regulations. He described the implementation of a program in the 1960's to reduce the cost of flood damage, and thus the cost of floodplain insurance. FEMA (Federal Emergency Management Agency) oversaw the states, and the state oversaw the county, so all three entities were involved. Technically it was a voluntary program. It allowed for some additional funding, which he illustrated with the Dublin Gulch washout. He thought Lake County came into the program in the 1980's. He pointed to a copy of the Flood Insurance Study (FIS) and flood insurance rate maps (FIRM). Steve mentioned the health and safety aspect. Jacob agreed, although it was driven by money in the form of insurance costs and the costs of damage.

Janet recounted that if property was found to be in a floodplain, it could lower the value. Steve described how as development occurred in a floodplain, it affected the dimensions of the floodplain. He compared building something in a floodplain to getting into the water in a bathtub, where the water level went up with the addition. When you built in the floodplain, that would displace that amount of water in a flood and push the edge of the floodplain out farther.

Part of managing development in the floodplain meant there was some control on properties just outside the floodplain, which came in the floodplain as the floodplain moved out. Janet mentioned that if structures were washed away, those could take out bridges and affect safety. Steve added those structures could knock things down on other properties downstream. Jacob highlighted the hazard of those plugging a culvert. He confirmed his role as the Lake County floodplain administrator. Wally outlined more history, beginning with the 1909 Rivers & Harbors Act and illustrating with examples from Missoula.

Steve suggested that they might bring up things where Jacob could let them know if they were important or not. In the MCA (Montana Code Annotated), floodplain was two words. It was one word in the regulations. Jacob thought it should be consistent in the regulations, whichever way they wanted it.

Points brought up in the regulations:

- Steve, pg. 4, section 1.4, #2: Suggestion to replace ‘minimize’ with ‘reduce’ or ‘attempt to minimize’. Jacob’s response: This word was chosen because it was used in the model regulations, and was used previously.
- Steve, pg. 5, section 1.5, #5: Add ‘and impervious surfaces’ after ‘flood barriers’. Wally touched on discharge. Steve summarized floodplain regulations as extreme stormwater management.
- Steve and Janet, pg. 5, section 1.5, #8: Suggestion to replace ‘Ensure’ with ‘Implement’. Response: This was from the model regulations. Wally noted they weren’t required to adopt exactly the model, if they had a rationale or reason to say this was an easily achievable deal. Jacob commented they didn’t want to debate with FEMA.

Jacob confirmed for Steve that the FIRM map date of Feb. 6, 2013 was really the most recent.

- Janet, pg. 5, section 1.6, 2<sup>nd</sup> line: Change ‘Area’ to Areas’
- Janet, pg. 5, section 1.6, 5<sup>th</sup> line: Change ‘[FIRMs] to [FIRM] for consistency.
- Lee, pg. 6, section 1.7, #1, #2 & #3: Are these items, which were struck, now covered in 4.2? Jacob’s response: yes.
- Janet, pg. 6, new section 1.7, 3<sup>rd</sup> sentence: Restructure this to read ‘In order for individuals and businesses within Lake County to remain eligible for National Flood Insurance, the Floodplain Administrator will administer and implement the provisions of these regulations and meet and maintain the commitments to FEMA pursuant to 44 CFR 59.22{a}’.

On pg. 9 in the 2<sup>nd</sup> remaining paragraph, Jacob described for Steve that this was tied to the base flood elevation, [and is] the regulated flood hazard area. They kind of explained each other. The definition for floodplain clarified that. The special flood hazard area referred to FEMA. Steve thought they might want to watch for that [being clear] as they went through this.

- Steve, pg. 9 and elsewhere: Use a consistent spelling and capitalization choice for ‘crawl space’, ‘crawl space’, ‘Crawl space’ and ‘Crawl Space’. Note that ‘Sub grade Crawl space’ is another definition.
- Steve, pg. 9, ‘Basement’ definition: Add ‘or sub grade crawl space’ after ‘crawl space’.
- Steve noted the defined terms were generally capitalized when they appeared in the regulations, to remind that the term could be looked up. That should happen throughout the document.
- Janet, pg. 10, ‘Elevated Building’ definition, 1<sup>st</sup> line: Eliminate ‘that’ after ‘basement and’.
- Jacob, pg. 11, ‘Floodway’ definition, 1<sup>st</sup> line: Delete ‘of the 100-year Floodplain’.
- Steve, pg. 12, ‘Freeboard’ definition: He commented ‘the hydrological effect of urbanization of the watershed’ was part of the increased impervious surface issue.
- Steve, pg. 14:
  - ‘Sub grade Crawl space’ definition: Issues with capitalizations and consistency of spelling, such as with Crawl space.
  - ‘Structure’ definition: Capitalize the ‘a’ in ‘artificial’ since ‘Artificial Obstruction’ is defined.
- Steve, pg. 14-15, ‘Substantial Improvement’ definition, #2: Add ‘is’ after ‘improvement’ in 2<sup>nd</sup> line, or make other change. Jacob suggested replacing with the model regulation wording, where the sentence beginning the definition included the wording in #1 and #2, leaving off the middle sentence of #2, and changing items a and b at the top of pg. 15 to #1 and #2. Steve suggested marking this to verify this says the desired thing here.

Janet asked if definitions were included for areas A, AE and X on the floodplain map. Jacob replied those weren’t included but could be. They were shown on the map key and on FEMA’s information. Zone A was approximate, zone AE was approximate with an elevation and X meant it had been studied but wasn’t in the 100-year or 1% floodplain. There were some blurred lines. Janet thought they might need a disclaimer or clarification about jurisdiction on the map because the Tribes owned the bed and banks of the waterways on the reservation. Jacob explained the map was for the board to look at and would not go in the regulations.

Jacob gave the example of Dublin Gulch, which was in A. It showed a floodplain but there was no study for it. To rebuild the bridge, they had to do a hydraulics and hydrology study to establish where the floodplain was before they rebuilt it. In AE, they’d have cross-sections and a floodway, and it had a full study that FEMA already did. Steve asked if Dublin Gulch had become an AE, given the studies done. Jacob said probably not. They’d have to do a map revision, which was a very huge, expensive process. The permit was given based on the study that showed it would handle the flow. The map was unlikely to change unless FEMA studied that whole reach.

Regarding A, AE and X, Jacob thought those could be added under the title ‘Flood Zones’ after ‘Flood Proofing’ (pg. 12). FEMA had a long list of floodplain zones that they dealt with. Lake County dealt with A, AE and X. They might want to stay specific to what Lake County dealt with. More discussion occurred between Steve, Janet and Jacob about where to put the definitions, how these appeared on the map legends, the blurred lines between the definitions and how staff used the maps in working with people. Steve said the map showed what areas had an

elevation such that they would be in the 100-year floodplain. It didn't discuss who you needed to go to for permitting or evaluation. Janet commented that defining it on the map rather than the regulations would probably clear it up. Jacob showed that on the FIRM maps, a short description of each zone used was given. It would be pointless to have this map in the regulations. It was too small to show anything. Staff took people to another map or the computer where they could zoom in on the property. Jacob confirmed that those maps were referenced in the document. Steve thought that might be enough. Sigurd asked how to tell A and AE apart on the map. Jacob explained he'd made them the same color to simplify for tonight. He just wanted to show where floodplain existed with this map.

Janet asked about seeing the flood insurance study. Jacob said it was online and pointed also to a copy on hand. The FIRMs were here and also online. You could go to the Planning Dept. web page and then to 'Floodplain'. [Editor's note: <https://www.lakemt.gov/planning/floodplain.html> ]

- Steve, pg. 21, 5.1 #2: Add 'or impervious surfaces' at the end. The ability for the soils to absorb water could affect the floodplain. It might be a good DNRC/FEMA question as to how they thought impervious surfaces should be treated. Wally gave some history. Jacob thought if you felt impervious surfaces fit the definition of artificial obstruction, then that was something they would consider. If you reasoned it didn't, then it was a different way to look at it. [The definition] included roads and bridges. It didn't specifically say impervious surfaces.
- Lee, pg. 21, 5.1 #3: Add 'or impervious surfaces' at the end. Steve reiterated a question for DNRC might be if it whether or not the parking areas were impervious made a difference.

Wally pointed out that if you paved parking, there was no sediment and you didn't increase turbidity but the problem was that you increased velocity, and that increased turbidity and quantity of carried load. He talked further about debates that arose. Jacob highlighted the last sentence in the opening paragraph of 5.1 (pg. 21), where anything requiring fill, grading or excavation was not exempt from permitting. Paving would require fill, excavation and grading, thus would require a permit.

Steve checked that breakwaters and riprapping along the shoreline were not exempted from floodplain permits in #12 (pg. 22). Jacob pointed to 12.f, which said they had to get one. Steve asked about the wording on pg. 23, 6.1, #4 and 6.2 #1. Jacob affirmed the new wording was from the model. Both he and Diana Luke, Environmental Health director, preferred the model language, which was more general and would not be affected by changes in the ARMs (Administrative Rules of Montana). Janet asked if Diana felt the impacts of drainfields in a floodplain could be minimized. Jacob said a drainfield had to be above or out of the floodplain. The components (the septic tank and the lines) could be in the floodplain as long as they were sealed and the lowest point of entry was 2 feet above the floodplain. If these were put in per the regulations, they believed they could minimize. The things that were tied to the components were in these regulations and required that. Drainfields were addressed through Diana's review.

- Steve, pg. 24, #4: Change 'and' to a comma prior to 'police stations' and add 'and ambulance stations' after it.

- Steve, pg. 27, #4: Capitalize ‘obstructions’ as a defined word.

Steve asked about entity communication regarding pg. 28, #3: Jacob clarified that Lake County Planning was required to make sure all other permits were in place prior to issuing. If the Planning Dept. felt a permit might be needed, they would require a response that it wasn’t needed or a copy of the permit from whatever entities they thought might need a permit.

Regarding 8.3 #2 on pg. 28, Steve asked about cumulative effect if two applications came in under the minimum but they added to a greater number. Jacob hadn’t seen that happen. They had large enough bodies of water that for them to raise the lake level, they’d have to put in an island. [Effects] were cumulative. Fortunately, with Flathead Lake being regulated, they were able to account for effects.

Regarding pg. 30, Steve asked if public hearings were held when evaluating these. Jacob answered that happened only when a variance was requested.

- Steve, pg. 31, #1, 2<sup>nd</sup> line: Eliminate ‘in’ after ‘provided in’.
- Steve, pg. 35: Given that #8 has been struck, renumber the next few items.
- Pg. 36, item d:
  - Jacob: Change ‘approvals’ to ‘approval’.
  - Steve: Add ‘elevation’ after ‘base flood’.
  - Janet: Reinstate d.i, d.ii and d.iii.
  - Janet: Add ‘The following information must be provided’ after ‘to Section 4.3.’
- Steve, pg. 36, #2: Add ‘projects’ after ‘channelization’.
- Janet, pg. 40, #11.b: Change ‘gas’ to ‘fuel’ in the 2<sup>nd</sup> line.

Regarding basements and pg. 42, Jacob said it would be treated differently than a crawlspace. It would be treated as living space, or rather as an enclosure.

John asked for clarification on wet and dry flood proofing. Steve outlined wet flood proofing as construction that could get wet without being damaged. For dry flood proofing, you had to keep the water out. For instance, an all-concrete foundation could fill up with water and drain out without damage. If there was carpeting that could be damaged, you’d need to dry flood proof that.

- Jacob, pg. 42, #16: Add letters to the standards listed there.
- Janet, pg. 41, #14: Relabel the sub-statements as a, b and c rather than 1, 2 and 3, for consistency.
- Steve, pg. 42, #18: Use a consistent form for ‘crawlspace’, as mentioned earlier.
- Steve, pg. 43:
  - #19, last line: Add ‘per anchor’ after ‘pounds’.
  - #19.2, end: Replace ‘; and’ with ‘.’.
  - #20: Replace ‘is’ with ‘must be’ in both lines.
  - 10.3, #2: Note that ‘2.’ precedes ‘Enclosure’ and remove ‘and’ at the end of the paragraph.
- Janet, #3: Replace the period at the end of the paragraph with ‘; and’.

- Jacob, #4: Replace ‘; and’ with a period at the end of the paragraph.
- Steve, pg. 49, #15, last line: Add ‘and’ after ‘100-year Floodplain’.
- Janet, pg. 51: Remove the mark in the margin to the left of the last line.
- Janet, pg. 52, 14.1, next-to-last line: Add ‘obstruction or use’ after ‘affected by the’.
- Steve, pg. 52, 14.1, first line: Capitalize ‘artificial obstruction’ as a defined term.
- Janet, pg. 54, 15.1, 2<sup>nd</sup> paragraph, 3<sup>rd</sup> line: Add ‘in addition to any administrative penalty’ after ‘or both’.
- Steve, pg. 55, D, ‘conversion...’ column: Add ‘+’ in front of each number in the column.

Steve commented on the term ‘encroachment’ used on the diagram, pg. 56, to refer to structures, fill and all the possible things. Jacob thought it was that, and the level with an encroachment. Steve observed it showed if you narrowed the floodway, you’d raise the level of the water. Jacob wondered if the map helped or confused. A better map might be available. Janet mentioned saying ‘regulated flood hazard area’ instead of ‘100-year floodplain’. She liked the way this map showed stream channel, floodway and floodway fringe. Steve thought because the encroachment was added, it wasn’t the floodway fringe anymore. When the encroachments were put in, wasn’t the water restricted to the floodway? Jacob replied it would divert it. You could have an encroachment in the fringe, and it would still be the fringe. It would change where the line was. Steve thought this was the area of encroachment that could be anything. He had a little trouble with this drawing.

- Jacob, pg. 56, last line of words: Change ‘not to exceed 1.0 foot’ to match the State of Montana amount.
- Jacob, pg. 56: He would look for a better map if the board would like one. Board members indicated a map would be helpful.

*(Note: No public were present to comment.)*

**Motion made by Steve Rosso, and seconded by Lee Perrin, to recommend approval with the suggested changes including answering the questions of impervious area, a new figure for pg. 56 and some other decisions that weren’t finalized.** Jacob mentioned one [figure] having to do with substantial improvements and fixing that. He would get that as well. **Motion carried, all in favor.**

## **MINUTES –Deferred**

## **OTHER BUSINESS**

Jacob talked about the status of previous zoning proposals.

**Steve Rosso, chair, adjourned the meeting at 8:22 pm.**